

APPEAL NO. 022783
FILED DECEMBER 18, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 14, 2002. With respect to the issues before him, the hearing officer determined that the appellant/cross-respondent's (claimant) compensable injury does not extend to or include the cervical spine and that the claimant had disability, as a result of her compensable right upper extremity injury, from September 10 to September 13, 2001, and from November 11, 2001, through the date of the hearing. In her appeal, the claimant contends that the hearing officer's determination that her compensable injury does not include a cervical injury is against the great weight of the evidence. In its response to the claimant's appeal, the respondent/cross-appellant (carrier) urges affirmance of the extent-of-injury determination. In its cross-appeal, the carrier asserts error in the hearing officer's disability determination. The claimant responded to the carrier's appeal, requesting affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury did not extend to and include a cervical injury and that she had disability, as a result of the compensable right upper extremity injury, from September 10 to September 13, 2001, and from November 11, 2001, through the date of the hearing. Those issues presented questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within his province as the fact finder in determining that the claimant did not sustain her burden of proving that her compensable injury included a cervical injury, particularly in light of the fact that the cervical diagnostic testing was essentially normal, with the exception of degenerative changes, which the hearing officer was free to find were not caused or aggravated by the claimant's job duties. The hearing officer likewise was free to determine, based on the medical evidence from Dr. F and the claimant's testimony, that she had disability for the period found due to the compensable right upper extremity injury. Nothing in our review of the record reveals that the challenged determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse the extent-of-injury and disability determinations on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**GARY SUDOL
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Veronica Lopez
Appeals Judge